I

Form of Notification for the Presidency proper.

It is hereby made known to the people of the undermentioned villages of Taluka , district , that the revision and the survey assessment of the lands of the said villages is about to be effected and that it is proposed to divide the said villages into the following groups the existing and proposed maximum rates of each village being as shown against its name in the following list :—

Number.	Name of village.	By former settlement.				By revision settlement.		
		Number of group.	Maximum rates.			Maximum rates.		
			Dry crop.	Rice.	Garden.	Dry crop.	Rice.	Garden
1	2	3	4	5	6	7	8	9
	Group I ...							
	Group II ...							
	Group III ...							

Reasons for alteration in the rates—

Reasons for alteration in the groups—

The result so far as the village of is concerned is that the rates in the village are $\frac{\text{raised}}{\text{lowered}}$ by annas in the rupee.

A copy of the settlement Officer's report has been deposited at the office of the Mamlatdar of , and is open to the inspection of any one interested.

For a period of two months from the date of the publication of this notification the Collector will be prepared to recieve objections made by any village Community to the proposed grouping of their village and the maximum rate thereof, which objections, must be presented in writing by the revenue patel of the village as the representative of such village community.

Collector of

II

Form of Notification for Sind.

It is hereby made known to the people of the under-mentioned villages of Taluka , district , that the revision of the survey assessment of the lands of the said villages is about to be effected and that it is proposed to divide the said villages into groups as detailed in the subjoined statement, the existing & proposed rates of each village being as shown against its name :—

Number.	Name of village.	By former Settlement.					By revision Settlement.				
		Number of group	Rates according to different modes of irrigation.				Rates according to different modes of irrigation.				
1	2	3	1								
	Group I										
	Group II										
	Group III										
	Group IV										

Reasons for alteration in the rates :—

Reasons for alteration in the grouping—

A copy of the Settlement Officer's report has been deposited at the office of the mukhtiarkar and is open to the inspection of any one interested.

For a period of two months from the date of the Publication of this notification, the Collector will be prepared to recieve objections in writing from any Zamindar to the proposed grouping of his village and the revised rates of proposed thereof.

G. 12. Question whether when assessment has been fixed for a term of years on land in Sind under Section 102 of the Land Revenue Code, an extra rate or cess can be imposed, before expiry of such term, on account of improvements in the supply of water to such land actually brought into force during such term—

The following copy of the memorandum from the Remembrancer of Legal Affairs No. 1981 dated 1st August 1917 should be forwarded to the Commissioner in Sind and the Collectors in Sind including the Deputy Commissioner, Upper Sind Frontier, for information with reference to Government Resolution No. 8118 dated 4th July 1917, with the intimation that Government concur with the legal Remembrancer that no alteration in the form of notification under Section 102 of the Land Revenue Code is necessary :—

Memorandum from the Remembrancer of Legal Affairs No. 1981 dated 1st August 1917 :—

"The question is whether when assessments have been fixed for a term of years on land in Sind under Section 102 of the Land Revenue Code, an extra rate or cess can be imposed before the expiry of such term, on account, of improvement in the supply of water to such land actually brought into force during such term.

2. "The ordinary land revenue (section 105) is fixed in Sind, and elsewhere, under section 109. It appears in Sind to be an assessment fixed with reference to the means of irrigation existing at the date of assessment (Section 101); these means of irrigation are not at the said time charged a separate rate under Section 55 or the Irrigation Act. In these circumstances Section 105 reserves to Government the power to charge the extra rate on account of improvement in irrigation brought into force during the term of the guarantee.

"3. The notice that assessments have been sanctioned by Government, which is issued under Section 103 and rule 90 of the Land Revenue Code rules in the form of appendix 15 contains in paragraph 2 a reservation of the right to impose an extra rate for the use of water on land which is either newly irrigated with, or is furnished with an increased supply of, water provided by Government. The notification of the fixing of assessments under section 102 in the form of appendix 14 contains no reservation, but is subject to the provisions of Section 105. I do not think it is necessary to alter this form, but there is no objection to inserting a reference to Section 105 if desired." (G. R. 11081 dated 14th September 1917).

G. 13. **Alteration in the forms of notifications guaranteeing settlements under sections 102 and 103 of the Land Revenue Code.** Letter from the Settlement Commissioner and Directer of Land Records No. S. T.—55 dated 31st October 1917:—

"Government in Order No. 10438 of 27th August 1917, Revenue Department, ruled that land used for non-agricultural purposes before the commencement of a settlement and included in an agricultural survey number as *pot kharab* cannot be assessed during the term of the guarantee given to the agricultural lands, even though the guarantee was confined to lands actually used for the purpose of agriculture alone. They direct in paragraph 2 that steps should be taken to exclude expressly such lands from the guarantee at the next revision settlement. I must confess I do not quite see how to give effect to these orders and request that orders may be passed as to how the wording of the guarantee notification should be changed in order that it may expressly exclude such lands. The form of guarantee in 1896 was purposely changed (vide Government Resolution No. 4267 of 28th of

No. 52

Insert G. 6—

" When a City Survey is introduced in a city a Record of Rights is generally prepared and maintained. Government have directed that in villages and small towns with a population of 2,000 and more, city survey should be introduced, but the Record of Rights should be dispensed with and the survey should be revised after every 25 years."

(G.R. No. 351/28, dated 30-8-1929.)

May 1896 and the Remembrancer of Legal Affairs' opinion accompanying the Government Resolution) in order that it may apply only to lands used for purpose of agricultural alone: and from the order of Government under reference it would appear that Government think that this revised form also some how does not answer the purpose for which it was intended, though the general impression is that the notification does exclude all lands not actually used for agriculture, and therefore very definitely covers even *pot kharab* used for a non-agriculture purpose before the notification is issued, I enclose a copy of the form of the guarantee notification which I have included in the new Land Revenue Code Rules which in the respect we are now considering is worded as it always has been since 1896, and request that early orders may be passed in the matter so that I may change the proposed form, in order that it may henceforth carry out the object for which the Remembrancer of Legal affairs (see R. 4267-96) revised it in 1896, but failed in his object."

Government memorandum No. 460 dated 16th January 1918 :—

" The undersigned presents compliments to the Settlement Commissioner and Director of Land Records and with reference to his letter No. S. T.—55 dated 31st October 1917 is directed to forward a copy of the form of the notification under Sections 102 and 103 of the Land Revenue Code as amended by the Remembrancer of Legal Affairs to avoid the difficulties which the omission to mention *pot kharab* land might lead to and to state that the form has been approved by Government."

Form of Notice under Sections 102 and 103, Land Revenue Code, 1879, for Revised Settlements.

(For original settlements see note below.)

Whereas the Governor of Bombay in Council has been pleased to sanction under Section 102 of the Bombay Land Revenue Code, 1879, the levy of as-

sessments for the revised settlement which have been fixed under the provisions of Sections 100 and 101 of the said Code in the case of such lands as are now actually used for the purposes of agriculture alone and in the case of unoccupied cultivable lands (but excepting lands classed as *pot kharab*) within the village of of the Taluka it is hereby declared under Section 102 of the said Code that the said assessments calculated as noted below shall henceforth be leviable in accordance therewith and shall be fixed for a term of years from to :—

Class of land.	Approximate increase or decrease in the rupee of existing assessment. annas.
Dry crop	
Rice etc.	

2. Notice of the same is hereby given under Section 103 of the said Code to all holders of land in respect of which the assessments have been sanctioned.

3. By this notice the revised settlement shall be deemed to have been introduced in the aforesaid village.

4. But in the case of land which may hereafter be brought under irrigation by the use of water, the right to which vests in Government or which is supplied from works constructed and maintained by, or at the instance of Government, or in the case of land which may be supplied with an increased amount of water from works constructed, repaired, or improved at the cost of the State, Government reserve the right of imposing an extra cess or rate, or of increasing any existing rate, for the use of water supplied or increased by such means, whether under the provisions of the Bombay Irrigation Act, 1879, or otherwise.

5. In addition to the fixed assessment, a cess not exceeding such rate as may be allowed by law will

be levied under the Bombay Local Fund Act, 1869, or other law for the time being in force, for the purpose of providing funds for expenditure on objects of local public utility and improvement.

6. The reservations respecting the right of Government to trees as made by any general notification at the time of, or after, the survey settlement and now reproduced in the margin, or as made by any express order at the time of survey settlement and recorded in the settlement records, are hereby continued. All other rights over trees are conceded to occupants.

Note :—In case of original settlements the following changes should be made in the above form :—

(1) Substitute " original " for " revised " occurring in line 3 of paragraph 1 and in line 1 of paragraph 3.

(2) After the word " assessments " in line 7 of paragraph 1 add " as shown in the accompanying akarband," and omit "as noted below."

(3) For the words " Approximate increase or decrease in the rupee of existing assessments " in paragraph 1 substitute " Maximum Rates."

Rs. a.

(4) Substitute the following for paragraph 6 :—

" 6. The right of Government to trees standing in lands which are now occupied is hereby conceded to the occupants thereof subject to the general exceptions entered in the margin and the special exceptions inscribed in the settlement records."

G. R. R. D. No. 819 dated 28th January 1918.

G. 14. **Settlement Report.**—Instruction for local publications of the alterations in the rates and grouping proposed by the Settlement Officer in

talukdari villages together with the part of the Settlement Officer's report relating thereto.—

Letter from the Talukdari Settlement Officer No. 593 dated 27th November 1917 :—

" I have the honour to state that by Government Resolution No. 8914 dated 14th Sep. 1916, it has been ordered that a notification should be published in each village showing the alterations in grouping and rates due to a revision settlement and that a copy of the Settlement Officer's report should be deposited in the Taluka office for perusal by interested parties. I now request that orders may be obtained whether these instructions apply to the case of jama settlement also in talukdari villages. Prima facie the same principle should apply, as the important thing to the talukdar is the settlement of jama and not that of the assessment which has no meaning for him apart from jama. I am also more inclined to give the talukdars an opportunity of stating their point of view because at the last revision settlement of jama for Dholka in the year 1892 the whole settlement had to be redone, after it had been sanctioned, on account of the representations of the talukdars.

" 2. At the same time if the talukdars are to be allowed to see the jama report, I think it will be sufficient if the copy of the report is placed in the Kacheri and no notification issued in the villages, as it would be obviously impossible to make a satisfactory summary of jama proposals dealing as in Dhandhuka with 75 or more separate estates. Of course, the notification regarding the new survey rates will be posted in the ordinary way."

Memorandum from the Commr. N.D., No. T.S.O.—165 dated 14th December 1917 :—

" Submitted to Govt. for the issue of necessary orders.

" The Commr. agrees with Mr. Gordon."

Order.—The Talukdari Settlement Officer should be informed that only the proposals regarding the grouping and rates should be published together with the part of the report relating thereto. Govt. do not consider it desirable to publish proposals for reduction of the demand below the full amount leviable by law as these reductions may depend not only on general considerations but also on the position of individual estates. (G. O. No. 1240, R. D. dated 6th February 1918.)

Introduction of settlements.

[a]**103.** When the levy of the assessment fixed under sections 100 and 101 upon any land has been sanctioned under section 102, and notice of the same has been given in accordance with rules made by the Governor in Council in this behalf, the settlement shall be deemed to have been introduced with respect to the lands of which the assessments have been sanctioned.

[a] This section was substituted by Bom.IV of 1913, s. 46, for the original section. As to the local modification of section 103, see para. 4 of foot-note [a] on p. 1, *supra*.

G. 1. **Assessments to affect Agricultural lands alone** :—These assessments in accordance with section 103 affect lands used for the purposes of agriculture alone. Lands which at the time of the announcement were appropriated for other purposes do not come within the purview of that Survey at all. The Collector can therefore assess them under Section 52 and the assessment must be made in accordance with the rules in force at the time of making it, not in accordance with the rules, if any, in force when the appropriation took place. (G. R. No. 6513, dated 19th September 1903).

G. 2. Form of notification guaranteeing settlements under Sec. 103 (Appendix I to rule 90 (1)) without alteration should be used in the absence of rules and a separate notice specifying the increases in the rates should be issued. The clause regarding

the assessment of new rice land, which was inserted in the existing form of notification under paragraph 6 of G. R. No. 508 dated 23rd January 1900 should be omitted. (G. R. R. D. No. 6543, dated 1st July 1916).

Excess assessment not to be levied in the year in which a Survey Settlement is introduced;

104. In the year in the course of which a survey settlement, whether original or revised, may be introduced under the last preceding section, the difference between the old and new assessment of all lands on which the latter may be in excess of the former shall be remitted, and the revised assessment shall be levied only from the next following year.

nor in the following year if the number is resigned that year.

[a] In the year next following that in which any [b] original or [b] revised survey settlement has been introduced, any occupant [c] who may be dissatisfied with the increased rate imposed by such new assessment on any of the survey numbers [d] or sub-divisions of survey numbers [d] held by him shall, on resigning such number [d] or sub-division [d] in the manner prescribed by [e] section 74 [e] on or before the 31st March, receive a remission of the increase so imposed.

[a] As to the local repeal of section 104, para. 2, see para. 4 of foot-note [a] on p. 1, *supra*.

[b—b] These words were inserted by Act XVI of 1895.

[c] As to the local modification of the word "occupant," see para. 5 of foot-note [a] on p. 1, *supra*.

[d—d] These words were inserted by Bom. IV of 1913, s. 47.

[e—e] These words and figures were substituted for the original words and figures "sections 74 and 76" by Bom. IV of 1193, s. 47.

SUMMARY (S. 104.)

Section 104.—Illustration for correctly understanding the Section... ... N 1

Year of introduction.

(1) Meaning of ... ... N 2

(2) Practice of showing new assessment in the ... ... G 11

Note.—The illustration in N 1 covers G. Rs. other than G 11 noted above.

No. 1. **Illustration for correctly understanding section 104.**

ORIGINAL SURVEY ASSESSMENT

(of a survey number as defined in amended section 3, (6)).

A—Rs. 10 Mamul assessment. Rs. 20 Original assessment.

B—Rs. 10 ditto. Rs. 5 ditto.

If the rates are introduced in 1879-1880, only Rs. 10 are to be levied in that year. The excess of Rs. 10 in the case of A is foregone and no refund of Rs. 5 in the case of B, is to be allowed in that year. The guarantee of 30 years and levy of Rs. 20 or 5 are to begin from the year 1880-81. (Sec. 104 L.R.C.)

REVISED ASSESSMENT

(of the survey number).

A—Rs. 20 original assessment. Rs. 40 Revised assessment.

B—Rs. 5 ditto. Rs. 2 ditto.

In the case of A if the rates are announced (introduced) in 1910-1911, then in that year the excess of Rs. 20 is to be foregone. In the case of B an abatement of Rs. 3, if the rates are announced before the first instalment, or a refund of Rs. 3, if the rates are announced after Rs. 5 are recovered at the first instalment, is to be allowed in Government villages only, and the guarantee and levy of Rs. 2 in the case of B are to begin from 1911-1912 (Section 104 Land Revenue Code, G. R. No. 2706 dated 5th April 1895, G. R. No. 1447 dated 27th February 1901 and G. R. No. 11605 dated 23rd December 1913).

2. As regards A, the guarantee of 30 years is to begin from 1911-12 but the actual levy is to be as follows :—

1911-12 and 1912-13	Rs. 25 0 0
1913-14 and 1914-15	Rs. 30 0 0
1915-16 and 1916-17	Rs. 35 0 0

(G. R. No. 3541 dated 4th May 1885, G. R. No. 2981 dated 20th April 1886 and 2579 of 30th March 1895).

NOTE 1.—These reduced amounts are levied in Khalsa villages as a matter of grace, but in inam villages, they depend upon the wish of the Inamdars. (G. R. No. 6556 dated 16th September 1890.)

NOTE 2.—The new section 84A, however, authorizes a Collector to apply the rule to Inam villages.

During the remaining period of the guarantee Rs. 40 are to be levied.

3. It will be seen from the above examples that the year of *introduction* of original or revised rates is an intermediate year between the expiry of the last settlement and the beginning of the new guarantee. Government have now directed that a *revised* settlement should generally be introduced in the last year of the former settlement and that if the excess of the old assessment over the revised reduced assessment has been collected in this last year, refund should not be made, but the amount recovered in excess should be deducted from the assessment due in the following year.

Accordingly, in the case of B, under Revised Assessment above, if Rs. 5 have been collected in 1909-10 (the 30th year of the original settlement) Rs. 3 recovered in excess will not be refunded, but will be taken as advance payment for the years 1910-11 and 1911-12. The guarantee of 30 years will *then* begin from *1910-11*.

(G. R. Nos. 6651 dated 3rd July 1908, 8824 dated 12th December 1916, and 1148 dated 30th January 1917).

N. 2. The year of "introduction" is the year in which a notice is given under section 103 newly

substituted by section 46 of Bombay Act IV of 1913. In this year the excess of the *new* over the old assessment is remitted and not *vice versa* (Section 104 and G. R. No. 2826, dated 7th May 1887).

G. 1. No doubt the use of the expression "remitted" would *prima facie* imply that the new assessment is legally leviable in the year of introduction but the clause "the revised assessment should be levied only from the next following year" appears to be quite general; if it applied only to cases in which the new assessment is in excess of the old, it would be mere surplusage. But as the old rates were too high in the case referred to, Government authorised the collection to be restricted to the revised rates in the then current revenue year. (G. R. No. 4739, dated 4th June 1897.)

G. 2. **Year of introduction—what it means.**—The Revision Survey Settlements must be held to have been introduced in the year in which the provisionally sanctioned assessments are announced under Section 103, and not in the year in which the modifications to which those assessments may have been declared liable are brought into operation. (G. R, No. 8057, dated 22nd December 1900.)

G. 3. **System of remissions.**—Remissions are allowed under Section 104 only in the year of introduction of the new survey settlement, and as the modifications have not to be introduced, they do not require to be remitted during the first year of their operation.

The first of the triennial periods, within which the levy of enhancements is restricted to 33 and 66 p. c. of the original assessment, commences from the date of announcement of the provisionally sanctioned assessments, not from the date on which the final assessments are brought into operation.

The scale of $\frac{1}{3}$ and $\frac{2}{3}$ may be adopted instead of 33 and 66 per cent. prescribed under the orders granting the concessions in the matter of the levy

of enhancements. (G. R. No. 8057, dated 22nd December 1900.)

G. 4. **Levy of revised rates.**—It is directed that the land revenue settlements should invariably be introduced between the 1st of August and the date of the first instalment of the collection of land-revenue, and that reductions in the assessments should be given effect to in the year of introduction. Care should be taken to submit proposals for revision of settlements in time to obviate any unavoidable loss of revenue, which might otherwise result from non-observance of these orders. (G. R. No. 1447, dated 27th February 1901.)

G. 5. If in any case Mamul rates recovered were less than the rates held to be recoverable, the difference cannot be levied. (G. R. No. 4598, dated 5th July 1902.)

G. 6. As laid down in G. R. No. 4559, of 1885 revised assessment comes into force in and from the year after its introduction, and the guarantee should run from the year in which the revised rates (whether enhanced or reduced) are first levied; the revised rates having been introduced in 1902-03, their levy should commence from 1903-04, and therefore the guarantee also should commence from the latter year. The order in G. R. No. 1447, dated 27th February 1901, that reductions should be given effect to in the year of introduction is a special concession made by Gorvernment, and does not affect the period of guarantee. (G. R. No. 1396, dated 27th February 1903.)

G. 7. Although new rates may legally be announced or introduced before the expiry of the term in which the old rates were guaranteed, the year of introduction must be the first year of the new settlement and not the last year of the current settlement, that is, if the old settlement expired on 31st July 1904, the new settlements must be introduced on 1st August 1904 and the revised

rates would be leviable from 1st August 1905. (G. R, No. 2973, dated 5th May 1903.)

G. 8. It was directed in G. R. No. 1447, that "reductions in the assessments should be given effect to in the year of introduction," and in paragraph 1 of G. R. No. 1396, dated 27th February 1903, it was pointed out that this was a special concession made by Government irrespective of the Land Revenue Code. But this concession is intended to be given at all revisions of settlement. (G. R. No. 5508, dated 13th August 1903.)

G. 9. **Remission to whom to be given.**—As a general rule, the amount of remission should be disbursed to whomsoever pays the assessment into Government treasury, whether solely or partly on his own account and whether he be the Khatedar, sub-sharer or tenant. (G. R. No. 2108, dated 31st March 1882.)

G. 10. **Announcement and introduction of rates and the first year of their levy.**—The announcement and introduction of rates are identical, for, the assessment is introduced by being announced. The revised assessment comes into force in the sense that it is levied, in and from the year after its introduction, and as the intention, is that rates once fixed should be collected for thirty years, the guarantee for thirty years should run from the year in which the rates are first levied as the first year of the thirty. Accordingly in the year of introduction no enhancement is to be levied, and in the year following also (see clause 2) an occupant may escape the enhancement by relinquishing his land but not otherwise. It is not enacted in this section that if the new assessment is less than the old, the difference between the new and old assessment will be remitted in the year of introduction, and if the assessment is introduced after the old assessment of the year of introduction has been collected, there remains nothing further to be done in that year. (G. R. No. 4559, dated 6th June 1885.)

G. 11. Government Resolution No. 4559, dated 9th June 1885 relates to the year from which the guarantee runs, and does not affect the practice of showing in the year in which a settlement is introduced the new assessment as the revenue and the amount by which it in any case exceeds the old assessment as a remission. This practice is in accordance with Section 104 of the Land Revenue Code and must be maintained. (G. R. No. 10088, dated 16th December 1885.)

G. 12. **The year of introduction, not the year of levy.**—The Code contemplates (1) the year of introduction, and (2) the year of levy. Section 103 lays down that when assessments have been announced in the manner provided, the Survey Settlement shall be held to have been introduced. Section 104 provides that revised assessment shall be levied from the next following year. It is therefore clear that the new rates do not have effect in the year of introduction. This view is supported by the speech of the Honourable Colonel Anderson in the discussion in the Legislative Council when Act I. of 1875, revising Act I. of 1865, was under consideration. He stated as follows :—

"If a settlement was introduced on the 25th August 1874 the new rates of assessment would take no effect in the year then current and in the ensuing year, 1875-76, the new rates would not be levied from any occupant who resigned his land before 31st March 1876."

The new rates having thus no effect in the year of introduction, the old rates would have to be levied, and the question whether, when the new rates are less than the old, the difference between them should or should not be remitted for that year cannot therefore arise. At a later stage in the discussion this particular question was considered, it being proposed that the clause in the Bill might be altered so as to bring it into accord with the then

custom that where the new assessment was less than the old one, the new one only should be levied. This suggestion was, however, over-ruled, and looking to the manifest intention of the Legislature, as indicated by the discussion above referred to, His Excellency the Governor in Council was of opinion that he could not construe Section 104 of the Land Revenue code as authorizing remissions in cases in which the new assessment is less than the old. (G. R. No. 2836, dated 7th May 1887.)

G. 13. In continuation of G. R. No. 1780* dated 4th March 1895, it is directed that the remissions granted in future revision settlements, under the Igatpuri system of concessions, shall be calculated on the survey number or pot number, unless specific orders to the contrary are given. (G. R. No. 2579, dated 30th March 1895).

G. 14. **How to calculate remissions—Remission in the Revision.**—Survey Settlements should be calculated on the individual survey number. (G. R. No. 2706, dated 5th April 1895).

G. 15. According to the Record of Rights portions of a survey number are distributed among various holders. The concessions about the levy of enhanced revision assessment should therefore be calculated on the difference between actual assessment of holdings according to the old and revised rates as shown in the village accounts. (G. R. No. 11605 dated 23rd December 1913.)

G. 16. **Reduction in Revision Survey assessments** :—In accordance with the spirit of Section 104 of the Land Revenue Code Government consider that even if the new Revision settlement is introduced in the last year of the old settlement *e.g.* 1915-16 effect should be given in that year to all reduction in assessment determined by the revised rates.

* Printed on pages 159 to 162 of the Survey and Settlement Manual, Vol. III.

As the excess of the old assessment over the revised reduced assessment has been collected in 1915-16 refunds should not be made; but the amount recovered in excess should be deducted from the assessments due in 1916-17. (G. R., R. D. No. 8824 dated 12th September 1916).

G. 17. Government consider that the practice of introducing the revised settlement during the last year of the previous settlement should be generally followed.

(G. R. No. 1148 dated 30th January 1917.)

The fixing of assessment under section 102 limited to ordinary land revenue.

105. The fixing of the assessment under the provisions of section 102 shall be strictly limited to the assessment of the ordinary land revenue, and shall not operate as a bar to the levy of any cess which it shall be lawful for the Governor in Council to impose under the provisions of any law for the time being in force for purposes of local improvement, such as schools, village, and district roads, bridges, tanks, wells, accommodation for travellers, and the like, or of any rate for the use of water which may be imposed under the provisions of section 55 [a] of the Bombay Irrigation Act, 1879 [a].

Bom. VII of 1879.

[a—a] These words were added by Bom. VII of 1879, s. 2.

G. 1. **No increase of consolidated assessment during current settlement :**—The orders in para 7 of G. R. No. 6068, dated 11th August 1897, and G. R. No. 7019, dated 22nd September 1897, declared in effect that the consolidated assessment could not legally be increased on account of improvements in irrigational facilities effected during the currency of a settlement introduced under Section 102, but there was no objection to the imposition of rates under Section 55, as well as of crop rates under the Irrigation Act in respect of such improvements.

A notification contained in appendix 15 is legally sufficient to safeguard the rights of Government. (G. R. No. 5861, dated 13th September 1898.)

106. It shall be lawful for the Governor in Council to direct, at any time, a fresh revenue survey or any operation subsidiary thereto, but no enhancement of assessment shall take effect till the expiration of the period previously fixed under the provisions of section 102. Government may direct a fresh survey and revision of assessment.

[a] Provided that when a general classification of the soil of any area has been made a second time, or when any original classification of any area has been approved by the Governor in Council as final, no such classification shall be again made with a view to the revision of the assessment of such area.

[a] This proviso was substituted for the original clause by Bom. IV of 1886, s. 1.

SUMMARY (S. 106.)

1 Field work—report by Survey Commissioner	G 1
2 Classification.	
(a) Dry crop	G 7
(b) Rice	
(c) Garden	
3 Re-classification of Gat. numbers of partial system	G 9
4 Revision Survey.	
(1) Arrangements for	G 2, 3, 5
(2) Fresh Revenue Survey ...	N 1
(3) Principles of	G 4, 8
5 Settlement report when to be made...	G 6

N. 1. The "fresh revenue survey" is ordinarily called "Revision Survey."

G. 1. Before revision operations are commenced in any of the collectorates, in which the term of the original settlements has not expired, the Survey Commissioner should carefully consider and report for the orders of Government the extent to which any general revision of field work may be imperative. (G. R. No. 2516, dated 5th May 1881.)

G. 2. **Revision Survey Arrangements.**—Every endeavour ought to be made by officers concerned to have proposals for revision submitted for the orders of Government in a complete form early enough to admit of orders being passed and rates announced before the end of the travelling season. (G. R. No. 7734, dated 20th October 1893.)

G. 3. The settlement officer should seek the guidance of the Director in preparing his reports especially in respect of all technical matters which were formerly dealt with by survey officers. (G. R. Nos. 519, dated 22nd January 1895 and 5202, dated 27th June 1905.)

G. 4. **Principles of revision.**—The revision of the settlement will depend entirely on changes in prices, including such local changes as result from improvement of communications and shifting of markets, although all indications of an increase or decrease in material wealth and general prosperity will be a guide as to the suitability of the old assessment. (G. R. 7494, dated 12th October, 1897).

G. 5. The following arrangements are prescribed to ensure in future the punctual and methodical submission of revision settlement reports after the abolition of the Survey Department. The orders will apply at once in the Central and Southern Divisions :—

Before the 31st July in each year the Director of Land Records (and Agriculture) should report to the Commissioner of each Division, the taluka or talukas in that Division, the current settlement of which expires on the 31st July, *two* years later—sub-

mitting at the same time his recommendations as to the arrangements to be made for the submission in due time of proposals for revision.

The following is the general outline of the programme which should be observed :—

(*a*) An officer should be selected with the approval of Government to prepare the proposals.

(*b*) In the travelling season, following the Director's report, the officer selected should thoroughly visit the tract to be reported on.

(*c*) His proposals should be submitted to the Collector before the 1st of June following, those of the Collector to the Commissioner before the 1st of August, and those of the Commissioner to Government before the 1st of October. (G. R. No. 800, dated 2nd February 1900.)

G. 6. The period of submission of settlement reports mentioned above was altered to 3 years before the expiry of all settlements by G. R. No. 347, dated 20th January 1903, but was again changed to *two* years, by G. R. No. 4955, dated 30th June 1904.

G. 7. **The tripartite classification.**—The tripartite classification (dry crop, rice and garden) in Village Form No. 1 is a record of soil classification which is final under Section 106 and this record has its value and should be maintained, notwithstanding the fact that in course of time the character of the cultivation of particular fields may change. (G. R. No. 5098, dated 22nd June 1905.)

G. 8. Rents paid by tenants should be taken into careful consideration in framing settlement proposals. (G. R. No. 2698, dated 13th March 1908).

G. 9. **Reclassification.**—At the original survey a Gat number, which was waste, was divided into four compartments only of nearly 50 acres each for

classification. The number was subsequently given out for cultivation. At the revision settlement the survey and classification of this occupied number were made according to the 'partial' system and the original classification was regarded as confirmed. This method of reclassification having been approved by Government, the land cannot be reclassified at the next revision settlement in view of the 2nd paragraph of Section 106 of the Land Revenue Code. (R. D. 14632, dated 4th December 1917.)

Conditions applicable to revisions of assessment.

[a]**107.** In revising assessments of land revenue regard shall be had to the value of land and, in the case of land used for the purposes of agriculture, to the profits of agriculture :

Provided that if any improvement has been effected in any land during the currency of any previous settlement made under this Act, or under Bombay Act I of 1865, [b] by or at the cost of the holder thereof, the increase in the value of such land or in the profit of cultivating the same, due to the said improvement, shall not be taken into account in fixing the revised assessment thereof.

[a] This section was substituted for the original section 107 by Bom. IV of 1886, s. 2.

[b] Bom. I of 1865 (except ss. 37 and 38) is repealed by s. 2 of this Act, which has been repealed by Bom. IV of 1913, s. 5.

SUMMARY (S. 107.)

Revision Survey.

(1) Fresh notification for objections when issued ... ...G 10,12

(2) Improvements effected by holder not taken into account ... G 4

(3) Increase of assessment to be paid by degrees ... ...G 2, 3, 5

(4) Limits of enhancement of assessment and remissions over 100 p. c. increase ... ...G 1, 6, 9, 11
(5) Objections to classification &c. invited... ... ... G 4, 7
(6) Special assessment near Railway stations ... ... G 8

G. 1. Government have, with a view to check the tendency of assessments being considerably increased in revision, laid down the following limits up to which enhancement of assessment may be allowed :—

1st. The increase of revenue in the case of a taluka or group of villages brought under the same maximum dry-crop rate shall not exceed 33 per cent.

2nd. No increase exceeding 66 per cent. should be imposed on a single village without the circumstances of the case being specially reported for the orders of Government.

3rd. No increase exceeding 100 per cent. shall in like manner be imposed on an individual holding. (G. R. No. 5739, dated 29th October 1874, and G. R. No. 2619, dated 26th March 1884).

G. 2. With all the precautions above enumerated it is sometimes found that the increases resulting from the revised rates are, owing chiefly to the rectification of the original classification, so excessive in individual cases that their immediate collection would cause hardship to the rayats concerned. With a view to obviate this hardship, as also to enable the rayats to adjust themselves to increased payments by degrees, Government have ordered that while the rent rolls (Akarband should in all cases be made out according to the full sanctioned rates, it should be notified that enhancement in excess of 4 annas in the rupee (or 25 per cent.) of the assessment on a holding will be

remitted for the two first years of the revised settlement, enhancement in excess of 8 annas in the rupee for the 3rd and 4th years, and enhancement in excess of 12 annas in the rupee for the 5th and 6th years of the revised settlement. (G. R. No. 3541, dated 4th May 1885.)

G. 3. The above system of remissions has been ordered to be extended to all revision settlements. (G. R. No. 2981, dated 28th April 1886.)

G. 4. One of the chief principles laid down by the Bombay Government for the guidance of their Survey Officers in revising survey settlements was that the assessment of land should not be enhanced in revision settlement on account of increased value due to improvements effected by the holder during the currency of the past settlements. This principle received legislative sanction in the Bombay Survey and Settlement Act (I of 1865) Section 30. In 1879, Bombay Act I. of 1865 was repealed and the provisions contained therein were embodied in the Bombay Land Revenue Code (Act V, of 1879). In this Code, while Section 30 of the Bombay Act I of 1865 was re-enacted with little change as Section 106, another section (Section 107)§ was added to it, which, although it had never been so applied or interpreted as modifying the principle that the occupant should be secured in the enjoyment of the improvements effected by his labour and outlay, did reserve to Government the power to consider, in fixing a revised assessment, the increased value derived from *certain classes of im-*

§ Nothing in the last preceeding section shall be held to prevent a revised assessment being fixed :—

(*a*) With reference to any improvement effected at the cost of Government or,

(*b*) With reference to the value of any natural advantage when the improvement effected from private capital and resources consists only in having created the means of utilizing such advantage, or,

(*c*) With reference to any improvement which is the result only of the ordinary operations of husbandry.

provements. As however Government had never used nor ever intended to use this section to tax improvements, it was considered undesirable to allow it to stand in the Statute book, the more so, as in its existing state it was calculated to give rise to misapprehensions and misunderstandings which might tend to discourage the application of private enterprise and capital to agriculture. It was accordingly proposed to amend this portion of the Code (Land Revenue Code, Act V, of 1879) and to re-enact it in such terms as might set forth clearly, absolutely and without qualification the two following principles:—

(1) That assessments will be revised on consideration of the value of land and the profits of agriculture, and.

(2) That assessments will not be increased on revision on account of increase to such value and profits due to improvements effected on any land during the currency of any previous settlement by, or at the cost of, the holder thereof.

With this object a bill (No. VI. of 1885) was introduced before the Legislative Council in the early part of the year 1885, which after a lengthy discussion was passed into law, Act IV. of 1886.

The latter portion of Section 106 and 107, are the amendments made by this Act.

By the above amendments the advantage of all improvements effected by holders, or at their cost in their holdings has now been fully assured to them.

While the above amendments were being discussed in the Legislative Council, one of the Honorable Members asked 'whether it would not be possible for Government to give an opportunity to the rayats to be heard as to enhancements before sanctioning the settlement.' The Council first objected to make any such provision as it would only delay and inconvenience the settlement oper-

ations, but subsequently at the instance of the President it was agreed that the wishes of the Honorable Member should be met by an executive order. A Government Resolution was accordingly issued to the following effect :—

"His Excellency the Governor-in-Council is desirous that the occupants of land should be given the fullest opportunities, while classing operations are in progress, of representing improvements and other circumstances which they consider should be taken into account in fixing the values of their fields. A formal notification* should in future be issued by the Superintendent of Survey, and published in each village, not less than three months before the operations are commenced, warning those concerned that they should bring to the notice of the Assistant Superintendent of Survey in charge of the party of classers, whilst the classing process is going on, any special circumstances bearing on the value of their lands and, failing due consideration from that officer, should appeal to the Superintendent of Survey.

"By the same Notification, moreover, the village communities should be advised to bring to the notice of the Survey Officers through their patel or panchayat any facts which, in their opinion, entitle their village to special consideration in fixing the standard of the new rates."

The same Resolution ordered the publication of another notification † before the introduction of the settlement, with the object of acquainting the rayats of the proposed rates and grouping. The Resolution runs :—" The Superintendent of Survey shall, as soon as he has worked out his revision of groups and rates, forward to the Collector a notification in Vernacular of the district, giving the names of the villages coming under revision according to the groups or assessment circles in which it is proposed

* In the form of Appendix 16.

† In the form of Appendix 17.

to arrange them, and showing against each village the existing and proposed maximum rates, *i.e.*, the cash rates applied to what is technically termed 16-anna soil upon which the assessment of all lands in the village are graduated according to their relative values. It shall be the duty of the Collector to cause this notification to be published without delay by arranging to have one copy posted up in the chavdy or other conspicuous place in each village affected by the settlement. The Notification should state that for a period of two months from the date of publication thereof the Collector will be prepared to receive objections made by the village community and presented in writing by the revenue patel as their representative, to the proposed grouping of villages and maximum rates. Any objections ‡ so received shall be forwarded by the Collector to Government through the Survey and Settlement and Divisional Commissioners, with such remarks by each officer as may appear necessary, and they will be taken into consideration by Government before final sanction is accorded to the proposals." (G. R. No. 7447, dated 21st October 1886.)

(*b*) The above notifications are now invariably issued in the case of every revision settlement and every objection raised by the rayat as to the groupings or rates is duly investigated and disposed of before the rates are finally introduced.

‡ (1) Government have now directed that a separate register should be kept of petitions against excessive individual enhancements made to the Survey and District authorities in connection with the introduction of revision settlements for ready reference and that the subject should be noticed in reporting the results of those settlements, (G. R. No. 2110, dated 20th March 1894)

(2) No form of register under G. R. No. 2110, dated 20th March 1894, need be prescribed. It was intended to facilitate the tabulation of materials for the notice of the working of the settlement to be *finished* under heading—Special measures—Settlements—in the Annual Administration Report. The observation under this heading should include besides general remarks, a summary of the number and the principal grounds of objections received and the manner in which they were disposed of. (G. R. No. 6529, dated 3rd August 1894.)

Further, to obviate the least possibility of improvements effected by the occupants at the expense of their private capital being taxed, Government have laid down that—"land which, though arable, was at the first survey included in a survey No. as unarable, and was left unassessed, shall also be left unassessed at the Revision settlement for the benefit of the occupant." (G. R. No. 2619, dated 26th March 1884.)

G. 5. This system of remission is not intended to be extended to alienated villages. (G. R. No. 6556, dated 16th September 1890.)

NOTE—This is now modified by new Section 84A.

G. 6. In calculating the 33 per cent. limit the patasthal rates, although imposed (Section 101) and levied along with the ordinary land-revenue, are not to be taken into account as they form no part of the land-revenue assessment proper being calculated on the average area of land actually under "pat" cultivation. Improvements by wells and budkis worked as auxiliaries to the flow supply and effected at the cost of the rayats are not liable to taxation. (G. R. No. 3880, dated 4th June 1891, and G. R. No. 3205, dated 5th April 1892.)

G. 7. In modification of G. R. No. 7447 [see *G. 4.* above], dated 21st October 1886, paragraph 1, the notification shall give a statement as shown in Appendix 18. (G. R. No. 490, dated 21st January 1895.)

G. 8. Special assessment.—The order passed in G. R. No. 4145, dated 16th June 1891, regarding extra rate for villages situated near railway stations is not of general application, but, on the contrary, immediate proximity to a large and important railway station, market, shall be deemed an adequate cause for a moderate special increase of assessment. (G. R. No. 2712, dated 27th March 1896.)

G. 9. Under both the orders of 1884 and 1895, Government retain the option of imposing more

than 100 p. c. enhancement for good reasons shown. When remissions are recommended reasons for and against should be discussed. (G. R. No. 346, dated 13th January 1903).

G. 10. When by the orders of Government on proposals for a settlement, the rates of a village have been fixed at a higher figure than that recommended by the Settlement Officer and published in the notifications issued before the receipt by Government of the report, a fresh notification should be published showing the assessments as determined under the orders of Government in the form Q. (Appendix 18) appended to G. R. No. 490, dated 21st January 1895. (G. R. No. 6141, dated 7th September 1903.)

G. 11. The power to remit revised assessment in excess of 100 p. c. on individual holdings is delegated to the Commissioners of Divisions, who should consult the Settlement Commissioner and Director of Land Records. The sanction should extend only to cases in which the Commissioner and the Settlement Commissioner agree; cases in which they differ should be referred to Government for orders. The attention of the Commissioners is invited to Government Resolutions Nos. 2619, dated 26th March 1884, 1780, dated 4th March 1895, and 346, dated 13th January 1906, in which the option of imposing more than 100 per cent. enhancement in any case for good reason shown has been reserved by Government. (Entry No. 5 in G. R. No. 8046, dated 7th August 1908).

G. 12. **Objections.**—The attention of the officers concerned should be invited to Government Resolution No. 6141 dated 7th September 1903 and they should be informed that by the issue of those orders it was the intention of Government that if an increase beyond the rates proposed by the Settlement Officer was ordered a further opportunity for objections should be allowed, the increased rates being held as provisional and subject to reconsideration

of objections, if any are received. (G. R. No. 15544, dated 28th December 1917.)

Preparation of statistical and fiscal records.

108. It shall be the duty of the survey officer, on the occasion of making or revising a settlement of land revenue, to prepare a register, to be called "the Settlement Register," showing the area and assessment of each survey number, [a] with any other particulars that may be prescribed [a] and other records, in accordance with such orders as may from time to time be made on this behalf by Government.

[a—a] These words were substituted for the original words "together with the name of the registered occupant of such survey number" by Bom. IV of 1913, s. 48.

SUMMARY (S. 108.)

Survey records.

(1) Akarband	N 1
(2) Faisalpatrak	N 1
(3) Khoti village	J 1, 2
(4) Papers forming	G 2
(5) Papers to be furnished to Revenue officers	G 1
(6) Second Revision Settlement ...	G 4
(7) Settlement Register	N 1
(8) Sud	N 1
(9) Village map	G 3

N. 1. Settlement register means Faisal Patrak. This paper is prepared by the Survey Department in the form of Appendix 19.

In addition to this, another important paper prepared by the Survey Department and furnished to the Revenue Department to enable it to prepare the land register (Village form No. 1) is the "Akarband" (Appendix 20). In the Konkan Survey instead of the "Akarband," a paper called "Sud" (Appendix 21) is prepared.

G. 1. The Collector's office at head-quarters, the Mamlatdars, or Mahalkaris and the village accountants should each of them be furnished with a copy of the field map and register directly the survey rates are introduced, and in the event of any one of these copies being lost or destroyed, its place should be at once supplied. (G. R. No. 5189, dated 4th July 1850.)

G. 2. **Records.**—The records to be prepared by the Survey Officers for future administration are (1) the village map (2) the settlement register and (3) the detailed record of each holding (botkhat). (G. R. No. 4084, dated 2nd November 1868.)

G. 3. When village maps are destroyed by neglect or careless usage within five years of being supplied, new copies are to be paid for by those who have caused the loss; but in such cases the orders of Government should be taken. (G. R. No. 3292, dated 23rd May 1877.)

G. 4. **Survey papers for 2nd Revision Settlement.**—At the introduction of new settlements, the practice is to prepare in addition to Akarband (1) Faisal Patrak (2) Wasulbaki Patrak. In the Second Revision Settlements neither re-measurement, reclassification nor potpahani are carried out and therefore the Phaisal Patrak and the Wasulbaki Patrak are not necessary. The Akarband should have an additional column to show the name of the Khatedar and may be denominated the Settlement Register. In place of the Wasulbaki Patrak the Village Accountant should be instructed to take his old village form No. 5, with an alphabetical list of khatedars and to copy out the new assessments on the Survey numbers forming each khata from the new Akarband. Such a statement will enable the officer introducing the 2nd Revision Settlement to inform any khatedar attending at the time of announcement of the rates, how the new assessment on his khata compared with that levied under the

previous settlement. (G. R. No. 7755, dated 14th August 1909.)

J. 1. The settlement officer's record fixing the amount of rent payable to a khot in respect of lands in the khoti village, though prepared in the form of statement published at page 584 of the "General rules of the Revenue Department," (Edition of 1893) and labelled "bot-khat" cannot be treated as a Survey Register under Section 108. (Vaidkhan *vs.* Sakhya, I. L. R. XX, Bombay, 729.)

J. 2. The decision of a Survey Officer determining the tenure on which a Survey No. is held is not final under the Khoti Act (I of 1880 as modified by Act III of 1904) and it can be reversed or modified by a competent court. (Antaji Kashinath *vs.* Antaji Madhao I. L. R. XXI, Bombay, 480.)

109. *Repealed by Bom. IV of 1913, sec. 49.*

110. *Repealed by Bom. IV of 1913, sec. 49.*

Revenue management of villages or estates not belonging to Government that may be temporarily under Government management.

[a]**111.** In the event of any alienated village or estate, coming under the temporary management of Government officers, it shall be lawful for the Collector to let out the lands thereof, at rates determined by means of a survey settlement or at such other fixed rates as he may deem to be reasonable, and [b] to grant unoccupied lands on lease [b] and otherwise to conduct the revenue management thereof under the rules for the management of unalienated lands, so far as such rules may be applicable, and for so long as the said village or estate shall be under the management of Government officers : provided, however, that any written agreements relating to the land, made by the superior holder of such village or estate, shall not be affected by any proceedings under this section in so far as they

shall not operate to the detriment of the lawful claims of Government on the land.

[a] As to the local modification of section III, see para. 5 of foot-note [a] on p. 1, *supra*.

[b—b] These words were substituted for the original words "to sell the occupancy of unoccupied lands by auction" by Bom. IV of 1913, s. 50.

G. 1. **Estate.**—The word "estate" in Section III, means under Section 3 any interest in land and therefore applies to a whole village or part of a village. (G.R. No. 2855, dated 1st May 1882.)

G. 2. The court of wards is not a Government officer within the meaning of this section. (G. R. No. 7698, dated 7th August 1909.)

Maintenance of existing settlements of land revenue.

[a]**112.** Existing survey settlements of and revenue made, approved and confirmed under the authority of the Governor in Council shall be, and are hereby declared to be in force subject to the provisions of this Act.

[a] As to the local repeal of s. 112, see para. 4 of foot-note [a] on p. 1, *supra*.

N. 1. *Vide* G. R. No. 6925, dated 19th November 1881 at G. 11 under Sections 216 and 217.

N. 2. *Vide* G. Rs. No. 10196, dated 19th December 1885, and No. 4758, dated 3rd July 1886, printed under Section 48.

Partition.

[a]**113.** Expenses properly incurred in making partition of estates paying revenue to Government shall be recoverable as a revenue demand in such proportions as the Collector may think fit from the sharers at whose request the partition is made, or from the persons interested in the partition.

[a] This section was substituted by Bom. IV of 1913, s. 51, for the original section.

SUMMARY (S. 113.)

Section 113.

New ... ... N 2

Partition.

(1) Collector's power ...G 10, 12, 13. J 2

(2) Commissioner's powers ... G 11

(3) Expenses ... ... N 1
G 1, 6, 7, 8

(4) Fees paid to Government servants ... ... G 4, 9

(5) Inam land or village ... ...

(a) Dewasthan ... ... G 5

(b) Held under Summary settlement ... ... G 2, 3

(6) Stamp—duty ... ... G 14, J 1

N. I. **Scale of Bhatta**—The scale according to which Bhatta is to be allowed to persons entrusted with the partition is as follows :—

For Clerks and Karkuns of collectors and other officers employed by the Collectors for each day actually on tour.—

	Rs.		Rs.	Rs.
on more than	275	to	500	3 0 0
Do	250	to	275	2 12 0
Do	225	to	250	2 8 0
Do	200	to	225	2 4 0
Do	175	to	200	2 0 0
Do	150	to	175	1 12 0
Do	125	to	150	1 8 0
Do	100	to	125	1 4 0
Do	87-8	to	100	1 0 0
Do	75	to	87-8	0 14 0
Do	62-8	to	75	0 12 0
Do	50	to	62-8	0 10 0
Do	37-8	to	50	0 8 0
Do	10	to	37-8	0 6 0

For Peons, &c.—

on more than Rs. 8-0-0.....0-2-0

on Rs. 8 and less.....0-1-0

(*Vide* Bombay Government Gazette, Part I., page 865, 1884.)

N. 2. Subsections (1) and (2) of the old section 113 have been expunged by section 51 of Bombay Act IV of 1913 because they have become superfluous owing to the extended recognition of subdivisions. The former subsection (3) is retained in slightly altered form.

G. 1. **Persons entrusted with partition, Travelling Expenses of.**—The travelling allowance of the person entrusted with the partition, according to the scale laid down in the High Court's circulars, as also contingent expenses on account of carriage of instruments required in such partition, necessarily and properly incurred, are to be recovered under clause 3 from the parties to the partition. In the first place, however, the parties interested should be called on to provide whatever assistance in the way of carriage of labourers the person entrusted with the partition may require, and in the event of a necessity to employ hired labour, the cost thereof with other contingent expenses should be recovered from the parties concerned as a revenue demand. (G. R. No. 6280, dated 11th September 1882.)

G. 2. **Partition of Inams under Summary Settlement.**—In cases of Inam land and villages held under the Summary Settlement, the Collector shall be bound to accord separate entry, (*a*) in every case of partition supported by a deed of consent; (*b*) in every case supported by a decree of the Civil Court. (G. R. No. 3483, dated 5th May 1883.)

G. 3. The decree in case (b) of *G. 2.* above must be a decree for the *partition* of the land or village. A decree which merely declares a person to be entitled to a share would not give that person a right to have a separate entry of name. (G. R. No. 8984 dated 14th November 1884).

G. 4. **Disposal of fees paid to Government Servants entrusted with partition.—Classers.**—When classers or other Revenue officers are deputed on a commission under Chapter XXV.* of the Civil Procedure Code, 1882, the Civil Courts grant them a certain fee for the execution of the said commission. (*Vide* Circular No. 39 page 17 of the High Court Civil Circular edition of 1903.) This fee should be recovered from the classers and the Revenue officers deputed on commission, and credited to Government in return for the loss of their services during the time they were engaged in executing the commission. (G. R. No. 7858, dated 28th September 1885, and G. R. No. 8520, dated 20th December 1888.)

G. 5. **Of Devasthan Inams.**—Having regard to the decision of the Bombay High Court in Mancharam *vs.* Pranshunker (I. L. R., Bombay, Volume VI., page 298, 1882), there seems no objection to the provisions of Section 113 of the Land Revenue Code being extended to the cases of Devasthan Inam lands paying only Judi to Government, provided that by the partition effected under the above section there will be no alienation of the property out of the family by which the services for which it was granted are to be performed. (G. R. No. 2457, dated 23rd April 1887.)

G. 6. **Other Expenses.**—The Collector should include the salaries and allowances of surveyors† and peons employed in effecting partitions in the expenses necessarily and properly incurred within the meaning of Section 113 (3) of the Land Revenue Code. The charge should be for the time the above officers are actually engaged in the

* Now Part III of the Civil Procedure Code—Act V of 1908.

† In calculating the expenses the estimates should be based on the uniform rate of Rs. 30 as the pay of the Circle Inspector. (Director of Land Record and Agriculture No. $\frac{L}{70}$ dated 8th January 1906.)

village in which the partition is to be effected, and for a reasonable time for going to, and returning from, that village; but a charge for one and the same day must not be made in more than one case. (G. R. No. 5894, J. D., dated 29th October 1888.)

G. 7. Charges, when incurred, in connection with partition of estates should be debited to Land Revenue, and the recoveries, when made, credited to that head by reduction of expenditure. (G. R. No. 3118, F. D. dated 27th April 1889.)

G. 8. G. Rs. No. 2379, dated 4th May 1889 and No. 5319, dated 5th October 1889 are cancelled. Circular No. 83 at pages 46 and 47 of the High Court's circulars having been cancelled the Collectors shall, in future, be left free to use their powers under the Bombay Land Revenue Code for the levy of the costs of the partition in execution of a Civil Court's decree of estates paying revenue to Government. (G. R. No. 1993, J. D., dated 14th April 1890.)

G. 9. **Other Government Servants.**—Government servants accepting commissions issued by Civil Courts are required to pay into the treasury, sums which they may receive as fees for their services. They are, when so engaged, regarded as being on duty and are allowed travelling allowance according to the rules in the Civil Service Regulations, the allowance being drawn in the usual way by presentation of bills on the Treasury. (G. R. No. 2053, J. D., dated 17th April 1890.)

G. 10. **Collectors's power in partition cases.**—The High Court has held in *Purbhudas Lakhmidas* vs. *Shankarbhai and others* (I. L. R. XI Bom. 662) that the duty of a Collector to whom a decree has been referred under section 265 (Now Section 54 of V of 1908) of the Civil Procedure Code for a partition, is not confined to a mere division of the lands declared to be divided, but includes delivery of the shares to their respective allottees. Thus the entire execution of such decrees devolves upon the Collector,

and he acts not, so to speak, as an officer or agent of the Court, but as a distinct tribunal invested by law with the sole power (subject to appeals and revision under Chapter XIII of the Land Revenue Code) of determining every thing relating to the execution. The procedure to be observed by the Collector is that laid down in the Land Revenue Code. (L. R. No. 870, dated 23rd June 1890; *vide* G. R. No. 4873, dated 14th July 1890.)

G. 11. **Finality of partition.**—In accordance with the opinion in case Shrinivas *vs.* Gurunath (I. L. R. 15 Bom. 527), if the aggrieved party could "apply for redress to the Collector" after a decree is once irregularly or improperly executed, the same party might apply to the Commissioner as a superior executive officer, though the ruling makes the partition not subject to revision or interference by a Civil Court under Section 265 (Now Section 54 of Act V of 1908) of the Civil Procedure Code. (G. R. No. 4558, dated 16th June 1897.)

G. 12 **Revision of a partition by the Collector.**—A Collector can revise either *suo muto* or under instructions from the Commissioner, a partition of lands wrongly or irregularly effected. The revised partition is the final partition. (G. R. No. 6548, dated 2nd September 1897.)

G. 13. **Power to appoint special Circle Inspectors** :—The Collector has power to appoint special Circle Inspectors and menials for partition and subdivision work performed for private individuals, the cost of which is deposited in advance. (G. R. No. 6067, dated 17th June 1907.)

G. 14. When stamped papers are required to be furnished in connection with the execution of a partition decree of a civil court. The value of the stamp required in such cases should be deposited in cash at the commencement of the proceedings and the requisite stamped paper should be purchased only when the proceedings are completed. This

course will obviate the necessity of refunding the value of stamps in case they were not used. The money should be credited to "Revenue deposits" in partition cases in respect of which the proceedings are commenced in a revenue court, and to civil courts' deposits when the proceedings are commenced in a civil court. (G. Rs. No. 10615, dated 19th October 1908 and 9829, dated 11th October 1909.)

J. 1. The words "a final order" in Section 2 (15) and article 45 (c) of Schedule I to the Indian Stamp Act (II of 1899) refer to the order for effecting the partition passed by a civil court and must therefore be stamped as an instrument of partition. I. L. R. 29, Bombay 366, and I. L. R. 36, Allahabad 137.

J. 2. If a partition is not in accordance with the direction of the decree by mistake a Collector can reopen the partition and the court also should not allow a mistake of the Collector in carrying out its directions to work permanent injustice. I. L. R. 40, Bombay 118.

Partition of certain estates by the collector on application by co-sharers.

114. Whenever any one or more co-sharers in a khoti estate, into which a revenue survey has been introduced, [a] or in a talukdari estate [a], consent to a partition of the said estate, it shall be lawful for the Collector, or for any other officer duly empowered by him in this behalf, [b] to divide the said estate into shares according to the respective rights of the co-sharers, and to allot such shares to the co-sharers :

Provided that no such partition shall be made, unless :

(*a*) all the co-sharers are agreed as to the extent of their respective rights in estate, and

(*b*) the assessment of the share or shares of the sharer or sharers consenting to such partition exceeds one-half of the assessment of the entire estate.

In such cases the expenses of partition shall be recovered [c] as a revenue demand [c] from all the co-sharers in the estate divided.

[a—a] These words are repealed in the districts of Ahmedabad, Kaira, Broach and the Panch Mahals by Bom. VI of 1888, s. 3.

[b] Words repealed by Bom. IV of 1913, s. 52 are omitted.

[c—c] These words were substituted for the original words "under rule (3) of the last preceding section" by Bom. IV of 1913, s. 52.

115. *Repealed by Bom. IV of 1913, s. 53.*

Division of survey numbers into new survey numbers.

[a]**116.** When any portion of cultivable land is permitted to be used under the provisions of section 65 or 67 for any non-agricultural purpose or when any portion of land is specially assigned under section 38, or when any assessment is altered or levied on any portion of land under sub-section (*2*) or sub-section (*3*) of section 48 such portion may, with the sanction of the Collector, be made into a separate number at any time notwithstanding the provisions of section 98.

[a] This section was substituted by Bom. IV of 1913, s. 54 for the original section.

SUMMARY (s. 116)

Section 116—G 8 under s. 67 referred to N 1
Separate demarcation—(1) expenses ... G 6,7
(2) Roads ... G 1
(3) Strips of survey numbers cut off by

(*a*) canals ... G 3
(*b*) drainage ... G 5
(*c*) railway ... G 4,5
(*d*) roads ... G 2

N— 1. *Vide* G. R. No. 2101 dated 23rd February 1916 at G 8 under section 67.

G 1. **Demarcation of lands taken up for roads:—** The principle that the land required for road purposes shall be demarcated at the expense of the road and by the officer entrusted with its construction is approved and should be given effect to in the case of all new roads. The most satisfactory method of demarcation is by means of continuous catch water drain, and this system should be adopted where suitable, elsewhere the demarcation must be by stones or earthen mounds as may be most convenient. A record of the area so demarcated and deducted from each survey holding as "Pot kharab" should be kept in the office of the Executive Engineer of the District. (G. R. No. 692-C. W. 1783, P. W. D., dated 21st November 1883).

G 2. **Disposal of strips cut off by roads.—** Government further approve of the recommendation that when a line of road cuts off a portion of a survey number so small or so irregularly shaped as to render its cultivation unprofitable to the occupant, such portion should be acquired at the expense of the road. The disposal of the plots so acquired must be left to the discretion of the Executive Engineer of the District or of the Local Boards concerned in the case of the local roads. In some instances they may be useful for stacking material or for barrow pits for murum for road repairs, in some they may with advantage be disposed of to the owners of neighbouring fields, which should be arranged for through the Collector, and in others the best method of treating them will be to hand them over to the Revenue Department for tree plantation, (*Ibid.*)

G 3. **Division of numbers when a Canal bisects.**—Portions of survey numbers cut off by canals which the occupant cannot cultivate or dispose of, sbould be taken over by the Irrigation Department and planted with trees. (G. R. $\frac{\text{P. W. D.}}{\text{Irrigation}}$ No. 221—W. I,—538, dated 15th December 1885).

G 4. **Lands intersected by Railways.**—In the case of lands intersected by railways the procedure should be that hitherto followed, *viz.*, to acquire the old corners and then to make them over to the adjacent cultivators on easy terms. (G. R. No. 100, P. W. D., dated 13th January 1886.)

G 5. **Invariable division into separate numbers when a railway bisects.**—When several survey numbers are bisected by a railway or drainage, *each* portion should be made into a separate number. It is not right to leave them as they are, marking the area taken as pot kharab. The changes should be recorded in all cases as punctually as possible after they occur. (G. R. No. 535, dated 28th January 1901.)

G 6. The cost of hired labour and of erecting boundary marks at the survey settlement should be recovered from the occupant. (G. R. No. 8626 dated 8th December 1903.)

G 7. **Expenditure incurred in demarcation:**—All expenses, incurred in connection with the re-demarcation required by rule of survey fields, parts of which have been acquired for railway purposes should be debitable to the Railway concerned as part of the cost of acquiring land, (Government of India R. D. No. 880—$\frac{213}{2}$ dated 10th June 1905—and Bombay $\frac{\text{P. W. D.}}{\text{Railway}}$ No. 2095, dated 9th August 1905).

Bombay Act V of 1862 not affected.

117. Nothing in section [*a*] 116 shall affect the provisions of Bombay Act V of 1862.

[*a*] Words repealed by Bom. IV of 1913, s. 55. are omited.

[a]**117A.** *(1)* Survey numbers may from time to time and at any time be divided into so many sub-divisions as may be required in view of the acquisition of rights in land or for any other reason. Division of survey numbers into sub-divisions.

(2) The division of survey numbers into sub-divisions and the fixing of the assessment of the sub-divisions shall be carried out and from time to time revised in accordance with rules made by the Governor in Council in this behalf:

provided that the total amount of the assessment of any survey number or sub-division shall not be enhanced during any term for which such assessment may have been fixed under section 102, unless such assessment is liable to alteration under section 48.

(3) The area and assessment of such sub-divisions shall be entered in such land records as the Governor in Council may prescribe in this behalf.

(a) This section was inserted by Bom. IV of 1913, s. 56.

N. 1. The assessment recoverable from each occupant from time to time will correspond with the area of land in his possession. The aggregate assessment of all the sub-divisions in any survey number will not exceed the assessment imposed upon the whole survey number by the settlement, and the share of each occupant will be ascertained by survey, or by agreement among the occupants in the same survey number, or by the rule of proportion. This change is effected by new section 117A.

Provisions applicable on relinquishment or forfeiture of a sub-division.

[a]**117B.** If any sub-division of a survey nnmber is relinquished under section 74 or is forfeited for default in payment of land revenue, the Collector shall offer such sub-division at such price as he may consider it to be worth to the occupants of the other sub-divisions of the same survey number in such order as in his discretion he may think fit; in the event of all such occupants refusing the same, it shall be disposed of as the Collector shall deem fit:

Provided that until the said sub-division shall be occupied or until the entire survey number shall be relinquished, whichever event may first occur, the assessment of the said sub-division shall be levied from the occupants of the other sub-divisions of the survey number in proportion to the amount of assessment due from such occupants on account of their sub-divisions.

For the purposes of this section notwithstanding anything contained in section 3, if any of the other sub-divisions have been mortgaged with possession, the mortgagors shall be deemed to be the occupants thereof.

[a] This section was inserted by Bom. IV of 1913, s. 56.

CHAPTER IX.

THE SETTLEMENT OF BOUNDARIES AND THE CONSTRUCTION AND MAINTENANCE OF BOUNDARY-MARKS.

Determination of village-boundaries.

[a]**118.** The boundaries of villages situated in British territory shall be fixed, and all disputes relating thereto shall be determined by survey